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November 4, 2021

By Electronic Submission

Honorable Ona T. Wang
United States District Court
Southern District of New
York 500 Pearl Street
New York, NY 10007

**Re: *National Coalition on Black Civic Participation, et al. v. Jacob Wohl, et al.,*
SDNY Case No. 20 Civ. 8668 (VM)(OTW)**

Dear Judge Wang:

This is an action arising from Defendants' intentional efforts to suppress voter turnout during the 2020 U.S. presidential election using intimidation and misinformation. The case presents important questions of federal law that will resonate far beyond the instant dispute and have implications for the 2022 federal midterm elections. Discovery, however, is at a standstill following a stay of discovery deadlines. *See* D.E. 101. A new case management plan is now required to move this matter toward trial—so that the questions it raises can be resolved before the next federal election. Accordingly, Plaintiffs now move for a Rule 16 scheduling conference to establish a new case management plan. Although the parties initially agreed on discovery deadlines, Defendants now oppose this motion on the grounds that Plaintiffs National Coalition on Black Civic Participation, et al., intend to file an amended complaint. But the contemplated amendments will not add any new parties or claims and do not excuse further delay in this case.

On May 4, 2021, Judge Marrero entered an initial case management plan after denying motions to stay and dismiss from the original Defendants, Jacob Wohl, Jack Burkman, and Project 1599. *See* D.E. 90. Two days later, the New York Office of the Attorney General (OAG) moved to intervene against the original Defendants and to bring claims against two new Defendants, Robert Mahanian and Message Communications. On May 19, 2021, Judge Marrero stayed the initial discovery deadlines to give the OAG time to serve the new Defendants. D.E. 101. Since then, all parties have been served, D.E. 111–14, 117–18, Judge Marrero denied Message and Mahanian's motion to dismiss, D.E. 140, and all parties have answered, D.E. 71, 120, 141. On August 11, 2021, the National Coalition Plaintiffs moved to compel production of documents, D.E. 131, which Defendants Wohl and Burkman opposed. Further discovery has been unable to proceed without the documents requested by that motion. The time is now ripe to move this case forward with a new discovery schedule.

Starting October 12, 2021, the parties conducted a Rule 26(f) conference and agreed on the attached proposed schedule, concluding all discovery on May 16, 2022. Defendants,

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however, refused to participate in finalizing the proposed scheduling order after learning that Plaintiffs National Coalition on Black Civic Participation, et al., intend to amend their complaint to add claims against Message and Mahanian that largely echo those already brought by the OAG—and which already survived a motion to dismiss.

Plaintiffs do not believe that the contemplated amendments should further delay discovery. The amendments would add no new parties or claims that would justify any additional motion practice. Nor will they alter the scope of discovery because the amendments would largely duplicate the claims already pending against Message and Mahanian. Discovery has already been substantially delayed in this case raising important voting rights questions that should be addressed before the 2022 federal election. To end further delay, Plaintiffs respectfully request that the Court so-order the attached proposed case management plan or, alternatively, schedule a case management conference to resolve the parties' scheduling dispute and Plaintiffs' pending motion to compel.

Respectfully,

/s/ Rick Sawyer

Rick Sawyer

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Encl.

cc: Counsel of record (via ECF and e-mail)